

Labor director answers criticisms of HIOSH

The safety and health of Hawaii's workers are not being compromised because of the Lingle-Aiona Administration's initiatives to be more business friendly. In fact, good safety programs depend upon a constructive working relationship between business, labor, and government.

The Hawaii Occupational and Safety and Health Division, an agency of the Department of Labor and Industrial Relations, is responsible to ensure every worker in Hawaii enjoys a safe and healthy workplace. As part of the state's funding agreement with the U.S. Department of Labor, HIOSH must meet OSHA's goals and standards.

Let's set the record straight

The Lingle-Aiona Administration inherited a struggling program, which previously consistently fell short of OSHA's goals. However, our latest evaluation from OSHA indicates that we have made marked improvements and successfully steered the agency in the right direction. During our first year, HIOSH inspected more job sites, performed more consultation services to businesses, improved its response time in investigating workers' claims, and created an environment where more Hawaii businesses are willing to partner with HIOSH in its recognition and achievement programs.

In the Fiscal Year 2003 Evaluation of HIOSH, which covers the period of October 2002 to September 2003, OSHA reported that HIOSH is on the right track: "The HIOSH program has struggled for years to meet its commitments. This year... we have seen improvement in both the total number of inspections and consultation visits."

HIOSH doubled the number of inspections

During the evaluation period, HIOSH conducted 999 inspections, which is double the amount the agency conducted two years ago. "The state is to be commended for their efforts in increasing their number of private-sector compliance inspections. They were one inspection short of their projected goal of 1000," reported OSHA in the evaluation. "This is much better than two years ago when inspections dropped to 485."

HIOSH exceeded its goal for consultation visits

HIOSH provided more consultation visits during this past fiscal year, exceeding its goal for the first time in many years. "For FY 2003, the state officials are to be commended for their efforts in increasing the level of consultation productivity. HIOSH conducted 253 consultation visits which exceeded its goal of 245."

HIOSH improved its efficiency in investigating discrimination complaints

HIOSH also made significant improvements in promptly investigating "discrimination complaints," which are filed by work-

ers who believe they were treated unfairly because they complained of a safety hazard. OSHA found that 90 percent of the discrimination complaints were investigated in a "timely fashion." This is a significant improvement from the previous year when "26 percent of Hawaii's discrimination investigations took more than 90 days to investigate and close."

More companies are forming partnerships with HIOSH by enrolling in HIOSH's recognition and achievement programs

Our proudest improvement is building successful relationships with the business community. In the past, companies were reluctant to partner with HIOSH because of their distrust in the agency.

A clear sign that we have gained the trust of the business community and improved our relationship with them is the total number of companies now participating in HIOSH's Voluntary Protection Program and the Safety and Health Achievement Recognition Program. These programs are designed to recognize large and small companies for creating an exemplary safety and health program and effectively implementing it. These companies are also awarded a minimum 5 percent discount on their workers' compensation premiums and are removed from HIOSH's planned inspection list.

Before receiving such recognition, HIOSH conducts an extensive review and analysis of the company's safety management system and work site. This process is intensive, time consuming and requires the coordination between the company's management team, its employees and the state government. The employees benefit the most through enhanced safety awareness and the employer benefits through lower insurance premiums.

Only one company was enrolled in the Voluntary Protection Program and no businesses were enrolled in the Safety and Health Achievement Recognition Program when our administration came into office. Today, there are three VPP companies and 10 S.H.A.R.P. companies, with nearly 70 companies currently working toward one of the two programs.

The new "business-friendly" HIOSH

We believe that strong, effective and fair enforcement policies will always be the foundation of our HIOSH program. However, we also believe the heavy-handed tactics by previous administrations were counterproductive. One of the first initiatives that our administration initiated was the de minimis and notice-of-violation policies. Previously, HIOSH would issue employers citations for minor infractions that could have easily been fixed on the spot, such as using an extension cord to connect a fan, having an inoperable horn on a company vehicle, having a cluttered work space, or failing to take down Christmas lights after the holiday season.

The de minimis policy allows a HIOSH inspector to point out nonserious hazards and allow the employer to fix it on the spot, or issue a "notice of violation" if the hazard can be corrected within two weeks. The employer is required to submit a letter to HIOSH confirming that the hazard has been fixed. If the employer fails to fix the hazard within two weeks, a citation will be issued by HIOSH.

The policy benefits employees because they are assured of a safe work environment through immediate correction of a problem. It also allows our inspectors to concentrate their efforts on addressing serious violations that are most likely to cause injuries.

Change of culture comes with change in philosophy

Apparently, not everyone is pleased with the new way HIOSH is doing business. In fact, a few "safety and health professionals" like Jim Peck of Hawaii Medical Service Association's Work Comp Hawaii are complaining that we are not citing businesses — possibly some of their clients — often enough. Why do they want to turn the clock back to the days of the heavy-handed HIOSH? I would encourage their clients to ask them this question.

When we began our business-friendly initiatives, we were told by several people that such changes would make a few safety and health consultants unhappy because we would be changing the way they do business. These safety officials are accustomed to providing advice on how "not to get cited and then how to beat a citation issued by HIOSH" rather than conducting a comprehensive evaluation of the employer's work site, and advising the employer on how to improve their safety management system. The latter is a more time-consuming and difficult process.

We believe that Mr. Peck and other safety and health officials would better serve the working families of our state by advising their business clients on what they need to do to create an effective management system so that they can also be recognized as a Safety and Health Achievement Recognition Program or Voluntary Protection Program company.

Areas of improvement

Although we have made significant improvements during our first year, there are still a lot of areas we want to improve. One of our immediate goals is to fill the numerous vacancies in HIOSH, a problem our administration inherited. We are actively in the process of filling those positions through the required civil service recruitment and hiring process. Let's set the record straight — these positions are not being purposely left vacant. There is absolutely no correlation between us wanting to be business friendly and these vacancies.

Despite HIOSH's vacancies, HIOSH has done more inspections, made more consultation visits, and provided more outreach to the community with less staff than in previous administrations, while meeting federal OSHA's mandates on staffing and program initiatives. We have partnered with labor and business in lowering workplace injuries in Hawaii. The most telling statistic is that in 2003, workers' compensation claims decreased by 1,089, from 29,757 in 2002 to 28,668 in 2003.

The bottom line is, our administration's initiatives are effective in improving the working conditions of our working families and that is what really counts.

Nelson Befitel is director of the state Department of Labor and Industrial Relations.



**Nelson
Befitel**

◆
In My
Opinion